



## Policy: Protected Disclosure

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### Policy Statement

Jireh Christian School (“the School”) seeks to facilitate the disclosure and timely investigation of serious wrongdoing in the School and to protect anyone who makes such a disclosure in accordance with the Protected Disclosures (Protection of Whistleblowers) Act 2022 (“Act”).

The purpose of this policy is to comply with the requirements of the Act to ensure that the School’s procedures follow principles of natural justice, to identify those within the School organisation to whom a disclosure may be made, and to outline where disclosures may be made to other persons or organisations.

### Definitions

Discloser, in relation to an organisation, means an individual who is (or was formerly)—

- an employee;
- a homeworker within the meaning given in section 5 of the Employment Relations Act 2000;
- a secondee to the organisation;
- engaged or contracted under a contract for services to do work for the organisation;
- concerned in the management of the organisation (including, for example, a person who is or was a member of the Board or governing body of the organisation);
- a volunteer working for the organisation without reward or expectation of reward for that work.

A disclosure of information is a protected disclosure if the discloser

- believes on reasonable grounds that there is, or has been, serious wrongdoing in or by the discloser’s organisation; and
- discloses information about that in accordance with this policy and the Act; and
- does not disclose it in bad faith.

Serious wrongdoing includes any act, omission, or course of conduct in (or by) any organisation that is 1 or more of the following:

- an offence;
- a serious risk to—
  - public health; or
  - public safety; or
  - the health or safety of any individual; or
  - the environment;
- a serious risk to the maintenance of law, including—
  - the prevention, investigation, and detection of offences; or
  - the right to a fair trial;
- an unlawful, a corrupt, or an irregular use of public funds or public resources;
- oppressive, unlawfully discriminatory, or grossly negligent, or that is gross mismanagement, and is done (or is an omission) by—
  - an employee (if the organisation is a public sector organisation);
  - a person performing (or purporting to perform) a function or duty or exercising (or purporting to exercise) a power on behalf of a public sector organisation or the Government.



**Appropriate Authority** has the meaning given in section 25 of the Act and includes:

- the head of any public sector organisation;
- any officer of Parliament;
- includes (as examples) the persons or bodies listed in the second column of Schedule 2 of the Act;
- includes the membership body of a particular profession, trade, or calling with the power to discipline its members.

The definition of appropriate authority does not include a Minister or a member of Parliament.

**Corrupt** refers to the abuse of entrusted power for private gain. It includes dishonest activity in which a manager, employee or contractor of the School acts contrary to the interest of the School and abuses their position of trust in order to achieve some personal gain or advantage for themselves or for another person or entity.

**Natural Justice** refers to the right to procedural fairness.

**Retaliation** in relation to an employee, means doing any of the following:

- dismissing an employee;
- refusing or omitting to offer or afford to an employee the same terms of employment, conditions of work, fringe benefits, or opportunities for training, promotion, and transfer as are made available to other employees of the same or substantially similar qualifications, experience, or skills employed in the same or substantially similar circumstances; or
- subjecting the employee to any detriment or disadvantage (including any detrimental or disadvantageous effect on the employee's employment, job performance, or job satisfaction) in circumstances in which other employees employed by the employer in work of that description are not or would not be subjected to such detriment or disadvantage; or
- retiring the employee, or requiring or causing the employee to retire or resign.

## **Procedural Guidelines**

### ***Protection provided by the Act***

A discloser is entitled to protection under this Act for a protected disclosure as follows:

- The School will use their best endeavours to keep the discloser's identity confidential unless an exception applies;
- there can be no retaliation against the discloser's employment;
- the discloser (and their relatives and associates) cannot be treated less favourably; and
- the discloser has an immunity for the disclosure in court or disciplinary proceedings; and
- As a public sector organisation, the School must provide practical assistance and advice to the discloser in relation to serious wrongdoing in or by that organisation.

### ***Exceptions to Confidentiality***

A discloser's identity may be disclosed if:

- The discloser consents to the release of identifying information;
- there are reasonable grounds to believe that the release of the identifying information is essential—
  - for the effective investigation of the disclosure; or
  - to prevent a serious risk to public health, public safety, the health or safety of any individual, or the environment; or
  - to comply with the principles of natural justice; or
  - to an investigation by a law enforcement or regulatory agency for the purpose of law enforcement.



- Before the School releases identifying information, we will consult with you if:
    - we reasonably believe it is essential for an effective investigation; or to comply with the principles of natural justice.
  - If practicable, we will consult with you, before the release of information, if we reasonably believe it is essential:
    - to prevent a serious risk to public health, public safety, the health or safety of any individual, or the environment; or
    - to an investigation by a law enforcement or regulatory agency for the purpose of law enforcement.
  - If your identifying information is released we will inform you of this.
  - You may seek information and guidance from an Ombudsman about the duty of confidentiality as it applies to this section in the Act (s 17 of the Protected Disclosures (Protection of Whistleblowers) Act 2022)
1. An employee/seconded/contractor/ volunteer or member of a governing body of the School (or formerly was one of these things) who makes a disclosure in accordance with the Act and this policy will be provided protection if:
    - 1.1. the discloser believes on reasonable grounds that there is, or has been, serious wrongdoing in or by the school; and
    - 1.2. discloses information in accordance with these guidelines/ pursuant to the Protected Disclosures (Protection of Whistle-blowers) Act 2022; and
    - 1.3. makes the disclosure in good faith.
  2. Serious wrongdoing for the purposes of this policy includes any act, omission, or course of conduct in or by the School that is any of the following:
    - 2.1. An offence;
    - 2.2. An unlawful, corrupt or irregular use of public funds or resources;
    - 2.3. A serious risk to public health, public safety, the health or safety of any individual, or the environment;
    - 2.4. Oppressive, unlawfully discriminatory, grossly negligent or constitutes gross mismanagement; or
    - 2.5. A serious risk to the maintenance of law, including the prevention, investigation, and detection of offences or the right to a fair trial.
  3. Subject to paragraph 5, staff members who make a disclosure and who have acted in accordance with school procedures and the Act:
    - 3.1. may bring a personal grievance in respect of any retaliatory action from their employers or supervisors;
    - 3.2. are not liable to criminal or civil proceedings or to a disciplinary hearing for having made a disclosure or referred to a disclosure; and
    - 3.3. will have their disclosure treated with the utmost confidentiality.
  4. For clarity, a discloser is entitled to protection even if:
    - 4.1. they are mistaken and there is no serious wrongdoing; or
    - 4.2. they do not refer to the name of this Act when making the disclosure; or
    - 4.3. they have technically fail to comply with section 11 or section 14 (as long as they have substantially complied); or
    - 4.4. they also make the disclosure to another person, as long as they do so—
      - 4.4.1. on a confidential basis; and
      - 4.4.2. for the purposes of seeking advice about whether or how to make a protected disclosure in accordance with the Act.



5. The protections provided in this policy and the Act will not be available to employees making allegations they know to be false or where they have acted in bad faith.
6. Any employee of the School making a protected disclosure must follow this procedure:
  - 6.1. The employee must submit the disclosure in writing;
  - 6.2. The disclosure must contain the following:
    - 6.2.1. The nature of the wrongdoing;
    - 6.2.2. The name or names of the people involved;
    - 6.2.3. Surrounding facts including details relating to the time and/or place of the wrongdoing (if known or relevant).
  - 6.3. A disclosure must be sent in writing to the Presiding Member of the Board or to the Presiding Member of the Kingsway Trust if you believe that the Presiding Member of the Board is involved in the wrongdoing or has an association with the person committing the wrongdoing that would make it inappropriate to disclose to them.
  - 6.4. On receipt of a disclosure, the Presiding Member of the Board or the Kingsway Trust must within 20 working days examine the allegations made and decide whether an investigation is warranted or whether the matter should be referred to an appropriate authority. If warranted, an investigation will be undertaken by the Presiding Member of the Board or the Kingsway Trust.
  - 6.5. When undertaking an investigation, and when writing the report, the investigating person must keep the identity of the disclosing person confidential, unless a complying exception applies (as outlined above).  
Should the investigator make this decision, the employee must be informed of this prior to a report going to the Board.
7. At the conclusion of the investigation the investigator will prepare a report with recommendations for action. This report will be sent to the Board.
8. An employee may make a disclosure to an appropriate authority at any time.

## Legislative Compliance

Protected Disclosures (Protection of Whistleblowers) Act 2022  
Employment Relations Act 2000

## Review schedule: Triennially

**ADOPTED BY BOARD**

Date 12<sup>th</sup> September 2017      Chairperson **R Thornton (Acting)**

Reviewed Date    1<sup>st</sup> September 2020  
Reviewed Date    26<sup>th</sup> March 2024

Chairperson **M Causley**  
Presiding Member **A Coombridge**